

REMARKS

The present amendment is responsive to the Office Action mailed in the above-referenced case on March 30, 2005. Claims 1-20 are presented for examination. In the Office Action the Examiner has rejected claims 1-20 under 35 U.S.C. 103(a) as being unpatentable over Newhall (US 5,682,479) hereinafter Newhall, in view of Wiher.

Applicant has carefully noted and reviewed the rejections, the references, and the Examiner's statements. Applicant herein provides arguments to more particularly point out the subject matter regarded as inventive, distinguishing unarguably over the references of Newhall and Wiher as cited and applied by the Examiner.

Regarding claim 1, the Examiner states that Newhall substantially teaches applicant's invention, however, Newhall fails to teach that port status is monitored on a continuing or periodic basis, or that a status table listing an alternative destination for each port along with active or failure status. The Examiner relies upon Wiher to teach the ability of monitoring port status on a continual or periodic basis. The Examiner states it would have been obvious for Newhall to incorporate applicant's claimed status table listing an alternative destination for each port along with the active or failure status.

Applicant herein amends claim 1 to specifically recite that the periodic or continual monitoring is to determine active or failed status. Although claim 1 previously held this claim it was not directly related to the monitoring port limitation. Applicant disagrees that Wiher teaches monitoring port status on a periodic or continual basis as claimed. Wiher teaches that signals modulated over signal lines 611 are used to receive ATM cells sent from the main LSM. Signals modulated over signal lines 612 are used to send ATM cells to the main LSM. Signals exchanged over signal lines 611 and 612 are modulated in reference to a clock signal that is, for example, a 12.5 megahertz (MHz) clock signal received from a LSM, and signals may be asserted or de-asserted on the rising edge of a clock pulse and sampled on the falling edge of the clock pulse (col. 11, lines 1-9), and ATM cells are transferred from a LSM to a line card by the exchange of

the LC-RR, LSM-SR, and LSM-DATA signals on the ISM to line card cell transport signal lines 611 (col. 11, lines 40-43).

The portion of Wiher, relied upon by the Examiner recites (emphasis added); "Referring to FIG. 7A, in the exemplary LC-RR timing diagram 700, the LC-RR signal is asserted when in a low voltage state. At clock 1, a framing indicator "F" is sent by asserting the LC-RR signal. At clock 2, the LC-RR signal is de-asserted indicating that the first line card port "P1" is not ready to receive data. At clock 3, the LC-RR signal is asserted indicating that the second line card port "P2" is ready to receive data. During the clock periods between the port status information and the subsequent framing indicator, i.e., periods 4 to 16, the LC-RR signal remains de-asserted. At clock 17 the framing indicator is again asserted and followed, at clocks 18 and 19, by updated port information."

Applicant argues that this teaching of Wiher is akin to shaking hands when transferring data between any two data sending and receiving devices. The clock process is used when sending data, and the ports are either ready or not ready, depending on whether they are currently sending, receiving data, or not, during the active data transmission session between the two devices. Here a low voltage signal is sent to parallel ports to see which one is ready to receive data during. This signal is in no way capable of determining active or failed status as claimed, enabling redirection of packets to an alternative destination. Wiher's teaching is simply not applicable to the ability of applicant's invention teaching a method for redirecting packets destined for a port, by monitoring port status on a continuing or periodic basis for active or failed status.

Regarding claims 7 and 13, applicant also respectfully traverses the Examiner's reasoning for obviousness regarding the art of Newhall. The Examiner asserts that, even though Newhall does not specifically teach a status table listing an alternative destination for each port along with the active or failure status, it would have been obvious to incorporate this feature into Newhall because it reduces complexity within the system. Applicant understands the Examiner to say that it is obvious because applicant's claimed feature makes Newhall's system work better. Applicant argues that this is not a valid reasoning for an obvious rejection in this case. Newhall's ability to provide an alternative

route for packets in the event of a failure, cannot obviate applicant's claim limitation of providing a status table listing an alternative destination for each port and the active and failed status of each port. There is absolutely no motivation found in the art to add the feature because Newhall teaches an exploration sequence when initializing routing packets in the network, or intermittently as a result of a fault in the network, only then is the status of ports checked. There is no need to keep a status table as claimed in the art of Newhall because Newhall is only concerned with port status when a fault has occurred, or when initializing the routing system. Additionally, applicant argues that the main purpose of most inventions submitted to the office for a patent is to improve upon the art, and should not be used as a reason to reject an invention.

Newhall and Wiher fail to teach monitoring ports in the network as claimed and maintaining a status table including alternative destinations for ports and active or failed status. Applicant believes that claim 1, as argued above, is patentable over the art of Newhall provided by the Examiner. Claims 2-6 are patentable on their own merits, or at least as dependent upon a patentable claim.

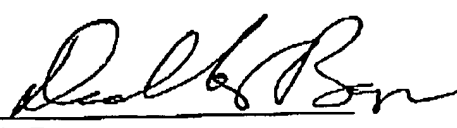
Regarding claims 7 and 13, applicant believes the arguments provided above regarding Newhall, easily serve to argue the patentability of these independent claims as they hold limitations included in said argument. Claims 8-12 and 14-20 are patentable on their own merits, or at least as dependent from a patentable claim.

As all of the claims, as argued, are clearly shown to be patentable over the art of Newhall, applicant respectfully requests that the rejections be withdrawn and that the case be passed quickly to issue.

8

If any fees are due beyond fees paid with this amendment, authorization is made to deduct those fees from deposit account 50-0534. If any time extension is needed beyond any extension requested with this amendment, such extension is hereby requested.

Respectfully Submitted,
David Skirmont et al.

by 
Donald R. Boys
Reg. No. 35,074

Central Coast Patent Agency
P.O. Box 187
Aromas, CA 95004
(831) 726-1457